



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

MAR 02 2020

REPLY TO THE ATTENTION OF

Berea Metals & Recycling
5201 West 164th Street
Brook Park, Ohio 44142

Re: Finding of Violation
Berea Metals & Recycling
Brook Park, Ohio

Dear Sir or Madam:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Berea Metals & Recycling (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated the Clean Air Act (CAA), 42 U.S.C. § 7401 et seq., specifically the regulations for the Protection of Stratospheric Ozone at 40 C.F.R. Part 82, Subpart F at your facility in Brook Park, Ohio. EPA promulgated these regulations as required by Section 608 of the CAA, 42 U.S.C. § 7671g.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Marie St. Peter. You may call Ms. St. Peter at (312) 886-4746 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sarah Brunema", is written over the typed name "Michael D. Harris".

 Michael D. Harris
Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Bob Hodanbosi, Chief, Division of Air Pollution Control, OEPA
James Kavalec, Environmental Manager, Division of Air Pollution Control OEPA
David Hearne, Department of Public Health, Division of Air Quality

1. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to recycling and emissions reductions of ozone-depleting substances. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II refrigerants and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.
2. Under 40 C.F.R. § 82.152, an appliance is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner (MVAC), refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.
3. Under 40 C.F.R. § 82.152, an MVAC is an appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. Part 82, Subpart B. Subpart B, at 40 C.F.R. § 82.32(d), states that MVAC “means mechanical vapor compression refrigeration equipment used to cool the driver’s or passenger’s compartment of any motor vehicle. This definition is not intended to encompass the hermetically sealed refrigeration systems used on motor vehicles for refrigerated cargo and the air conditioning systems on passenger buses using HCFC-22 refrigerant.”
4. Under 40 C.F.R. § 82.152, an MVAC-like appliance is a mechanical vapor compression, open-drive compressor appliance with a full charge of 20 pounds or less of refrigerant used to cool the driver’s or passenger’s compartment of off-road vehicles or equipment.

This includes, but is not limited to, the air-conditioning equipment found on agricultural or construction vehicles. This definition is not intended to cover appliances using R-22 refrigerant.

5. Under 40 C.F.R. § 82.152, a small appliance is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners, portable air conditioners, and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.
6. Under 40 C.F.R. § 82.155(b), the final processor—i.e., persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, MVAC, or MVAC-like appliance—must either:
 - (1) Recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.155(a); or
 - (2) Verify using a signed statement or a contract that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a). If using a signed statement, it must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. If using a signed contract between the supplier and the final processor, it must either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the supplier.
7. Under 40 C.F.R. § 82.152, recover means to remove refrigerant in any condition from an appliance and to store it in an external container without necessarily testing or processing it in any way.
8. Under 40 C.F.R. § 82.155(b)(2)(ii), the final processor must notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155 (a) before delivery of the items to the facility. The form of this notification may be signs, letters to suppliers, or other equivalent means.

FACTUAL BACKGROUND

9. Berea Metals & Recycling (Berea) owns and/or operates a scrap metal recycling facility at 5201 West 164th Street in Brook Park, Ohio (Facility).
10. At its Facility, Berea Metals & Recycling accepts for recycling and disposal, among other things, small appliances and MVACs that contain or once contained refrigerant.
11. EPA conducted an unannounced inspection of the Facility on June 13, 2019.

FINDINGS AND VIOLATIONS

12. The Facility is a final processor in the disposal process for vehicles and appliances, including small appliances and MVACs, within the meaning of 40 C.F.R. § 82.155(b).
13. At the time of the inspection, the Facility representative stated that the Facility did not recover refrigerant from small appliances or MVACs.
14. At the time of the inspection, the Facility lacked the proper equipment to recover refrigerant from small appliances or MVACs.
15. Berea representatives stated that it does not require suppliers to sign a contract prior to acceptance of small appliances or MVACs.
16. Berea representatives stated that it does not have a verification statement for suppliers to verify that refrigerants have been recovered prior to delivery to the Facility.
17. At the time of the inspection, EPA inspectors observed small appliances in Berea's scrap yard at the Facility. These small appliances had no signs of proper recovery.
18. By failing to recover refrigerants from appliances during scrap recycling in accordance with 40 C.F.R. §§ 82.155(a) and 82.155(b), or to verify that refrigerants have been recovered in accordance with 40 C.F.R. § 82.155(b)(2), Berea violated 40 C.F.R. § 82.155(b) at the Facility.
19. At the time of the inspection, Berea did not have any signage, or other equivalent means, to notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) prior to delivery of the appliance.
20. By failing to notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) before delivery of the items to the facility, Berea violated 40 C.F.R. § 82.155(b)(2)(ii).

ENVIRONMENTAL IMPACT OF VIOLATIONS

21. These violations caused emissions of ozone depleting substances, including chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs).
22. CFCs and HCFCs are known to contribute to the depletion of the stratospheric ozone layer, which protects life on Earth from the sun's harmful ultraviolet radiation (UV).

23. UV radiation has been associated with adverse health effects, including skin cancer, cataracts and immune suppression. UV radiation may also have adverse effects on plant life and aquatic ecosystems.

Date

3-2-2020

for

Sara Brenna

Michael D. Harris

Director

Enforcement and Compliance Assurance Division

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/calc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entiv-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 14 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

State Locators provide state-specific contacts, regulations and sources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has no such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

CERTIFICATE OF MAILING

I certify that I sent a Finding of Violation, No. EPA-5-20-COE-05, by Certified Mail, Return Receipt Requested, to:

Owner
Berea Metals & Recycling
5201 West 164th Street
Brook Park, Ohio 44142


I also certify that I sent copies of the Finding of Violation by first-class mail to:

Bob Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
bob.hodanbosi@epa.ohio.gov

James Kavalec, Environmental Manager
Division of Air Pollution Control
Ohio Environmental Protection Agency
James.kavalec@epa.ohio.gov

David Hearne
Cleveland Department of Public Health
Division of Air Quality
dhearne@city.cleveland.oh.us

On the 3rd day of March 2020



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7018 0680 0002 2789 4892